

**Introduced by Senator DeSaulnier**

February 17, 2011

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An act to amend Sections 480 and 482 of the Revenue and Taxation Code, relating to taxation.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 507, as introduced, DeSaulnier. Property taxation: change in ownership statement.

Existing property tax law requires a transferee of real property or a manufactured home that is locally assessed to file a change in ownership statement with the county in which the property or manufactured home is located, and authorizes the change in ownership statement to be filed with the assessor through the United States mail. If a county assessor makes a written request to a transferee to file a change in ownership statement and the transferee fails to do so within 45 days of that request, existing law imposes a penalty on the transferee equal to the greater of either \$100 or 10% of the property taxes due on the property, but not to exceed \$2,500 if the failure was not willful.

This bill would require a change in ownership statement that is filed with the assessor through the United States mail to be deemed filed with the assessor on either the date of postmark affixed by the United States Postal service, or on the date certified by a bona fide private courier service, on the envelope containing the statement. This bill would remove the \$2,500 cap on the penalty for nonwillful failures to file a change in ownership statement and would instead provide a \$5,000 cap on the penalty for failure to file a change in ownership statement on property that is eligible for the homeowners' property tax exemption or a \$20,000 cap if the property is not eligible for the homeowners' exemption. This bill would extend, from 45 days to 90 days, the time

period for filing a change in ownership statement if requested to do so by the assessor. This bill would also specify to which addresses the assessor may mail this request or a notice of a penalty. This bill would also make conforming changes to a related provision.

Existing law requires a corporation, partnership, limited liability company, or other legal entity to file a change in ownership statement within 45 days from the date of the change in control or the change in ownership, or within 45 days from the date of a written request by the State Board of Equalization. Existing law requires a penalty to be imposed if the person or legal entity required to file a change in ownership statement fails to do so within 45 days from the date of a written request by the State Board of Equalization.

This bill would require this penalty to be automatically extinguished if the person or legal entity files a complete change in ownership statement no later than 90 days after the date on which the person or legal entity is notified of the penalty.

By changing the manner in which county officials process property tax penalties, this bill would impose a state-mandate local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 480 of the Revenue and Taxation Code  
2     is amended to read:  
3     480. (a) Whenever there occurs any change in ownership of  
4     real property or of a manufactured home that is subject to local  
5     property taxation and is assessed by the county assessor, the  
6     transferee shall file a signed change in ownership statement in the  
7     county where the real property or manufactured home is located,  
8     as provided for in subdivision (c). In the case of a change in  
9     ownership where the transferee is not locally assessed, no change  
10    in ownership statement is required.

1 (b) The personal representative shall file a change in ownership  
2 statement with the county recorder or assessor in each county in  
3 which the decedent owned real property at the time of death that  
4 is subject to probate proceedings. The statement shall be filed prior  
5 to or at the time the inventory and appraisal is filed with the court  
6 clerk. In all other cases in which an interest in real property is  
7 transferred by reason of death, including a transfer through the  
8 medium of a trust, the change in ownership statement or statements  
9 shall be filed by the trustee (if the property was held in trust) or  
10 the transferee with the county recorder or assessor in each county  
11 in which the decedent owned an interest in real property within  
12 150 days after the date of death.

13 (c) Except as provided in subdivision (d), the change in  
14 ownership statement as required pursuant to subdivision (a) shall  
15 be declared to be true under penalty of perjury and shall give that  
16 information relative to the real property or manufactured home  
17 acquisition transaction as the board shall prescribe after  
18 consultation with the California Assessors' Association. The  
19 information shall include, but not be limited to, a description of  
20 the property, the parties to the transaction, the date of acquisition,  
21 the amount, if any, of the consideration paid for the property,  
22 whether paid in money or otherwise, and the terms of the  
23 transaction. The change in ownership statement shall not include  
24 any question that is not germane to the assessment function. The  
25 statement shall contain a notice informing the transferee of the  
26 property tax relief available under Section 69.5. The statement  
27 shall contain a notice that is printed, with the title in at least  
28 12-point boldface type and the body in at least 8-point boldface  
29 type, in the following form:

30 "Important Notice"

31  
32 "The law requires any transferee acquiring an interest in real  
33 property or manufactured home subject to local property taxation,  
34 and that is assessed by the county assessor, to file a change in  
35 ownership statement with the county recorder or assessor. The  
36 change in ownership statement must be filed at the time of  
37 recording or, if the transfer is not recorded, within 45 days of the  
38 date of the change in ownership, except that where the change in  
39 ownership has occurred by reason of death the statement shall be  
40 filed within 150 days after the date of death or, if the estate is

1 probated, shall be filed at the time the inventory and appraisal is  
2 filed. The failure to file a change in ownership statement within  
3 ~~45~~ 90 days from the date of a written request *is mailed* by the  
4 assessor results in a penalty of either: (1) one hundred dollars  
5 (\$100), or (2) 10 percent of the taxes applicable to the new base  
6 year value reflecting the change in ownership of the real property  
7 or manufactured home, whichever is greater, but not to exceed  
8 ~~two thousand five hundred dollars (\$2,500)~~ *five thousand dollars*  
9 *(\$5,000) if the property is eligible for the homeowners' exemption*  
10 *or twenty thousand dollars (\$20,000) if the property is not eligible*  
11 *for the homeowners' exemption* if that failure to file was not willful.  
12 *The assessor is required to mail the request to file a change in*  
13 *ownership statement to the transferee at the address specified for*  
14 *mailing tax information on either the recorded instrument, the*  
15 *document evidencing a transfer of an interest in real property or*  
16 *manufactured home, or on the filed preliminary change in*  
17 *ownership report, or, if an address is not specified for mailing tax*  
18 *information, to any address reasonably known to the assessor.*  
19 This penalty will be added to the assessment roll and shall be  
20 collected like any other delinquent property taxes, and be subject  
21 to the same penalties for nonpayment.”

22 (d) The change in ownership statement may be attached to or  
23 accompany the deed or other document evidencing a change in  
24 ownership filed for recording, in which case the notice, declaration  
25 under penalty of perjury, and any information contained in the  
26 deed or other transfer document otherwise required by subdivision  
27 (c) may be omitted.

28 (e) If the document evidencing a change in ownership is  
29 recorded in the county recorder's office, then the statement shall  
30 be filed with the recorder at the time of recordation. However, the  
31 recordation of the deed or other document evidencing a change in  
32 ownership shall not be denied or delayed because of the failure to  
33 file a change of ownership statement, or filing of an incomplete  
34 statement, in accordance with this subdivision. If the document  
35 evidencing a change in ownership is not recorded or is recorded  
36 without the concurrent filing of a change in ownership statement,  
37 then the statement shall be filed with the assessor no later than 45  
38 days from the date the change in ownership occurs, except that  
39 where the change in ownership has occurred by reason of death  
40 the statement shall be filed within 150 days after the date of death

1 or, if the estate is probated, shall be filed at the time the inventory  
2 and appraisal is filed.

3 (f) Whenever a change in ownership statement is filed with the  
4 county recorder's office, the recorder shall transmit, as soon as  
5 possible, the original statement or a true copy thereof to the  
6 assessor along with a copy of every recorded document as required  
7 by Section 255.7.

8 (g) (1) The change in ownership statement may be filed with  
9 the assessor through the United States mail, properly addressed  
10 with the postage prepaid.

11 (2) *A change in ownership statement that is filed with the*  
12 *assessor, as authorized by paragraph (1), shall be deemed filed*  
13 *on either the date of the postmark affixed by the United States*  
14 *Postal Service containing the statement or on the date certified by*  
15 *a bona fide private courier service on the envelope containing the*  
16 *statement.*

17 (h) In the case of a corporation, the change in ownership  
18 statement shall be signed either by an officer of the corporation or  
19 an employee or agent who has been designated in writing by the  
20 board of directors to sign those statements on behalf of the  
21 corporation. In the case of a partnership, limited liability company,  
22 or other legal entity, the statement shall be signed by an officer,  
23 partner, manager, or an employee or agent who has been designated  
24 in writing by the partnership, limited liability company, or legal  
25 entity.

26 (i) No person or entity acting for or on behalf of the parties to  
27 a transfer of real property shall incur liability for the consequences  
28 of assistance rendered to the transferee in preparation of any change  
29 in ownership statement, and no action may be brought or  
30 maintained against any person or entity as a result of that  
31 assistance.

32 Nothing in this section shall create a duty, either directly or by  
33 implication, that the assistance be rendered by any person or entity  
34 acting for or on behalf of parties to a transfer of real property.

35 SEC. 2. Section 482 of the Revenue and Taxation Code is  
36 amended to read:

37 482. (a) (1) If a person or legal entity required to file a  
38 statement described in Section 480 fails to do so within ~~45~~ 90 days  
39 from the date ~~of~~ a written request *is mailed* by the assessor, a  
40 penalty of either: ~~(1)~~ (A) one hundred dollars (\$100), or ~~(2)~~ (B) 10

1 percent of the taxes applicable to the new base year value reflecting  
2 the change in ownership of the real property or manufactured  
3 home, whichever is greater, but not to exceed ~~two thousand five~~  
4 ~~hundred dollars (\$2,500)~~ *five thousand dollars (\$5,000) if the*  
5 *property is eligible for the homeowners' exemption or twenty*  
6 *thousand dollars (\$20,000) if the property is not eligible for the*  
7 *homeowners' exemption* if the failure to file was not willful, shall,  
8 except as otherwise provided in this section, be added to the  
9 assessment made on the roll. The penalty shall apply for failure to  
10 file a complete change in ownership statement notwithstanding  
11 the fact that the assessor determines that no change in ownership  
12 has occurred as defined in Chapter 2 (commencing with Section  
13 60) of Part 0.5. The penalty may also be applied if after a request  
14 the transferee files an incomplete statement and does not supply  
15 the missing information upon a second request.

16 (2) *The assessor shall mail the written request specified in*  
17 *paragraph (1) to the mailing address of the transferee as provided*  
18 *by subdivision (f).*

19 (b) If a person or legal entity required to file a statement  
20 described in Section 480.1 or 480.2 fails to do so within 45 days  
21 from the earlier of (1) the date of the change in control or the  
22 change in ownership of the corporation, partnership, limited  
23 liability company, or other legal entity, or (2) the date of a written  
24 request by the State Board of Equalization, a penalty of 10 percent  
25 of the taxes applicable to the new base year value reflecting the  
26 change in control or change in ownership of the real property  
27 owned by the corporation, partnership, or legal entity, or 10 percent  
28 of the current year's taxes on that property if no change in control  
29 or change in ownership occurred, shall be added to the assessment  
30 made on the roll. The penalty shall apply for failure to file a  
31 complete statement notwithstanding the fact that the board  
32 determines that no change in control or change in ownership has  
33 occurred as defined in subdivision (c) or (d) of Section 64. The  
34 penalty may also be applied if after a request the person or legal  
35 entity files an incomplete statement and does not supply the missing  
36 information upon a second request. That penalty shall be in lieu  
37 of the penalty provisions of subdivision (a). *However, the penalty*  
38 *added by this subdivision shall be automatically extinguished if*  
39 *the person or legal entity files a complete statement described in*

1 *Section 480.1 or 480.2 no later than 90 days after the date on*  
2 *which the person or legal entity is notified of the penalty.*

3 (c) The penalty for failure to file a timely statement pursuant to  
4 Sections 480, 480.1, and 480.2 for any one transfer may be imposed  
5 only one time, even though the assessor may initiate a request as  
6 often as he or she deems necessary.

7 (d) The penalty shall be added to the roll in the same manner  
8 as a special assessment and treated, collected, and subject to the  
9 same penalties for the delinquency as all other taxes on the roll in  
10 which it is entered.

11 (1) When the transfer to be reported under this section is of a  
12 portion of a property or parcel appearing on the roll during the  
13 fiscal year in which the 45-day *or 90-day* period, *as applicable*,  
14 expires, the current year's taxes shall be prorated so the penalty  
15 will be computed on the proportion of property which has  
16 transferred.

17 (2) Any penalty added to the roll pursuant to this section  
18 between January 1 and June 30 may be entered either on the  
19 unsecured roll or the roll being prepared. After January 1, the  
20 penalty may be added to the current roll only with the approval of  
21 the tax collector.

22 (3) If the property is transferred or conveyed to a bona fide  
23 purchaser for value or becomes subject to a lien of a bona fide  
24 encumbrancer for value after the transfer of ownership resulting  
25 in the imposition of the penalty and before the enrollment of the  
26 penalty, the penalty shall be entered on the unsecured roll in the  
27 name of the transferee whose failure to file the change in ownership  
28 statement resulted in the imposition of the penalty.

29 (e) When a penalty imposed pursuant to this section is entered  
30 on the unsecured roll, the tax collector may immediately file a  
31 certificate authorized by Section 2191.3.

32 (f) Notice of any penalty added to either the secured or  
33 unsecured roll pursuant to this section, *and the written request to*  
34 *file a statement specified in subdivision (a)*, shall be mailed by the  
35 assessor to the transferee at his or her address contained in any  
36 recorded instrument or document evidencing a transfer of an  
37 interest in real property or manufactured home ~~or at any address~~  
38 ~~reasonably known to the assessor~~ *the address specified for mailing*  
39 *tax information contained in the preliminary change in ownership*  
40 *report. If the transferee has subsequently notified the assessor of*

1 *a change in address for mailing tax information, the assessor shall*  
2 *mail the notice of any penalty, or the written request to file a*  
3 *statement specified in subdivision (a), to this address. If there is*  
4 *no address specified for mailing tax information on either the*  
5 *recorded instrument, the document evidencing a transfer of an*  
6 *interest in real property or manufactured home, or on the filed*  
7 *preliminary change in ownership report, and the transferee has*  
8 *not provided an address for purposes of mailing tax information,*  
9 *the assessor shall mail the notice of any penalty, or the written*  
10 *request to file a statement specified in subdivision (a), to the*  
11 *transferee at any address reasonably known to the assessor.*

12 SEC. 3. If the Commission on State Mandates determines that  
13 this act contains costs mandated by the state, reimbursement to  
14 local agencies and school districts for those costs shall be made  
15 pursuant to Part 7 (commencing with Section 17500) of Division  
16 4 of Title 2 of the Government Code.